



புதுச்சேரி மாநில அரசிதழ்

La Gazette de L'État de Poudouchéry The Gazette of Puducherry

அதிகாரம் பெற்ற வெளியீடு

Publiée par Autorité

Published by Authority

விலை : ₹ 36-00

Prix : ₹ 36-00

Price : ₹ 36-00

எண்	புதுச்சேரி	செவ்வாய்க்கிழமை	2017 ஆ	செப்டம்பர் மீ	26 உ
No.	39 Poudouchéry	Mardi	26	Septembre	2017 (4 Asvina 1939)
No.	Puducherry	Tuesday	26th	September	2017

பொருளடக்கம்

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respondent to increase their wages proportionate to the cost of living and the increase in the commodities and they have made several representations to the respondent management regarding their just demands for revising their wages according to the cost of living in person and also by representations in writing and the respondent has not taken any steps for revising the wages even after a lapse of two years, the petitioner union have submitted a demand on 1-3-2011 to the respondent for revising the wages for Grade-I ₹ 7,000-400-8,200-500-9,700-600-11,500-700-13,600-800-14,400, Grade-II ₹ 6,500-350-7,550-450-8,900-550-10,550-650-12,500-750-13,250 and Grade-III ₹ 6,300-300-7,200-400-8,400-500-9,400-600-11,600-700-11,900.

(ii) It is further stated that inspite of their representations the respondent has not whispered anything regarding the just demands for revising the wages and on the contrary the respondent is extorting hard labors from the petitioner union on the basis of the wages fixed in 2007 and the management failed to note the exorbitant increase of all prices of the commodities and the cost of living of the employees and also failed to note that the increment @ ₹ 50 to 100 was paid when the salary was ₹ 1,000 to 1500 and now the increment claimed is from ₹ 400 to 800 when the basic salary claimed is ₹ 7,000 to 14,400 is justifiable and further that the respondent management is very keen in increasing the monthly salary to the management staffs every now and then according to the cost of living and on the contrary the management is refusing even to have any negotiations to the petitioner union for their just demands and even before the conciliation.

(iii) It is further stated that since the respondent management has not provided any housing facility of their own, the employees are constrained to travel 30 to 40 kilometres every day to attend their work and hence, the petitioner has made a demand of ₹ 60 per day as transport allowance taking into consideration of the increase in the fuel price and they have made their just demands of ₹ 75 per day as attendance allowance and ₹ 500 per month as washing allowance and the respondent management completely shut their eyes without any justification

or reason regarding the just demands of the employees hence, the petitioner union were constrained to raise a dispute regarding the above demands and without considering the demands of the petitioner union the respondent management started to attack the very existence of the petitioner union with some ulterior motives and to avoid any negotiations with the petitioner union and therefore, the petitioner union prayed this Court to pass an Award fixing the time Scale of Pay *w.e.f.*, 1-9-2010 for employees Grade-I ₹ 7,000-400-8,200-500-9,700-600-11,500-700-13,600-800-14,400, Grade-II ₹ 6,500-350-7,550-450-8,900-550-10,550-650-12,500-750-13,250 and Grade-III ₹ 6,300-300-7,200-400-8,400-500-9,400-600-11,600-700-11,900 as for the payment of bonus at 20% and *ex gratia* at 20% to the employees with Transport Allowance at ₹ 60 per day and washing allowance at ₹ 500 per month and variable dearness allowance at ₹ 12 for each point increase.

3. *The averments in the counter filed by the respondent are as follows :*

(i) The respondent stated that the claim statement made by the petitioner union is not maintainable either in law or on facts and stated that due to accumulation of stocks, lack of orders the management was unable to provide any meaningful work to the workmen and hence, the management declared layoff to all the workmen with effect from 14-12-2015 and the respondent factory has been incurring continuous losses for several years and the accumulated losses mounted to ₹ 100 crores as against the paid up capital of ₹ 10.66 crores and the company has been registered as a sick company with the Board for Industrial and Financial Reconstruction (BIFR) under the provisions of the Sick Industrial Companies (Special provisions) Act, 1985 and further that the cost of manufacturing has far exceeded the competitive prices of the company's products in the market and due to huge accumulated losses the undertaking has become economically and commercially non viable and beyond possible salvage and in order to prevent further losses the management was left with no option but, to close down the respondent factory permanently and irrevocably with effect from 29-12-2015 and the workmen who were well aware of the crisis, instead of extending their full fledged cooperation to the

management to overcome the difficulties have resorted to coercive agitations of physically preventing the dispatch of trailers manufactured in the plant in spite of advice by the Police not to resort to such activities and threatening the office staff.

(ii) It is further stated that prior to the formation of the petitioner union the one and the only registered and recognized union was Sedarapet Industries Pattali Workers Union and the long term settlement was arrived with the said recognized union pertaining to productivity norms, productivity linked incentive scheme, wage revision, dearness allowance, house rent allowance, conveyance allowance, attendance, bonus, food allowance, washing allowance, shoe polish allowance, production allowance, personal allowance, uniform stitching allowance, *etc.*, and all the workmen have accepted and received the benefits arose from the settlement and the petitioner union was not in existence at that time and subsequent to the said settlement intra union rivalry developed in Sedarapet Industries Pattali Workers Union resulting in the formation of the petitioner union and further that mere formation of a new union would not entitle them to raise fresh demands during the tenure of the settlement since all the members of the petitioner union have accepted and received the settlement benefits while they were members in the Sedarapet Industries Pattali Workers Union which was the only union existing in the factory espousing the cause of all workmen during the relevant period.

(iii) It is further stated that the petitioner union has suppressed all the material facts in the claim statement *viz.*, existence of one union in the respondent factory prior to formation of petitioner union, 18(1) settlement arrived with the said union, acceptance and receipt of all the benefits arose from the settlement by all the workmen including the members of the petitioner union which was formed subsequent to the settlement and that the said settlement was not in question in the reference under adjudication and the members of the petitioner union bound by the settlement are not entitled to make fresh demands during subsistence of the said settlement and prayed this Court to dismiss the claim petition.

4. In the course of enquiry, on the side of the petitioner, the petitioner was examined himself as PW.1 and Ex.P1 to Ex.P3 were marked and the respondent called absent and no representation for respondent and hence, the respondent was set *ex parte*.

5. The point for determination is:

Whether the dispute raised by the petitioner union against the respondent management over charter of demands such as to fix the time Scale of Pay with effect from 1-9-2010 for Grade-I, II & III, transport allowance @ ₹ 60 per day and attendance allowance @ ₹ 75 per day, washing allowance @ ₹ 500 per month *etc.*, mentioned above are justified or not?

6. Heard. It is the evidence of the petitioner PW.1 that the service condition of the union members of the petitioner union expired by 31-8-2010 and the union has requested the respondent management to increase their wages proportionate to the cost of living and though the union has made several representations to the respondent management regarding their just demands for revising their wages according to the cost of living the respondent management has not taken any steps for revising their wages even after a lapse of two years and in order to prove the case, the petitioner union has exhibited Ex.P1 to Ex.P3.

7. It is clearly established through the petitioner evidence and records that the petitioner union has made a demand with the respondent management in respect of wage increase for which they have raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and that therefore, this reference has been made to this Court to decide whether the dispute raised by the petitioner union over the charter of demands are justified or not.

8. On the other hand, the respondent has not let any evidence since he was set *ex parte*. Though the respondent has appeared and filed its counter, no evidence was let in by them, to disprove the case of the petitioner. Considering the fact that the petitioner union has established its case that in spite of several representations to the respondent management regarding their just demands for revising their wages according to the cost of living the respondent management has not taken any steps for revising their wages, it is to be held that the petitioner union members are entitled for the wage revision as demanded in their charter of demands and that therefore, the dispute raised by the petitioner union before the Conciliation Officer over the charter of demands is justified and the petition filed by the petitioner union is liable to be allowed.

9. In the result, the petition is allowed and the Award is passed by directing the respondent to fix the time Scale of Pay with effect from 1-9-2010 for Grade-I ₹ 7,000-400-8,200-500-9,700-600-11,500-700-13,600-800-14,400, Grade-II ₹ 6,500-350-7,550-450-8,900-550-10,550-650-12,500-750-13,250 and Grade-III ₹ 6,300-300-7,200-400-8,400-500-9,400-600-11,600-700-11,900 and transport allowance @ ₹ 60 per day, attendance allowance @ ₹ 75 per day and washing allowance @ ₹ 500 per month to the petitioners as claimed by the petitioner union. No cost.

Dictated to the Stenographer transcribed by her, corrected and pronounced by me in the open Court on this the 27th day of June, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 22-06-2017— Pandi

List of petitioner's exhibits:

Ex.P1 — 01-03-2011 — Copy of demand sent by the petitioner union to the respondent.

Ex.P2 — 10-07-2011 — Copy of 18(1) settlement made by the mother unit of the respondent.

Ex.P3 — 24-12-2012 — Copy of 12(3) settlement made by Larsen and Tubro Limited with its employees.

List of respondents witness : Nil.

List of respondents Exhibits : Nil.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
JUDICIAL DEPARTMENT**

No. 2111/JUD/JM-II/PDY./2017.

Puducherry, the 4th September 2017.

NOTIFICATION

It is hereby notified that the case records mentioned in the Annexure will be destroyed after one month from the date of publication of this notification. Hence, parties to those cases, who are willing to get any of the documents or certified copies thereof, may approach the Court within one month from the date of this publication.

M. DHANALAKSHMI,
Judicial Magistrate-II
Puducherry.

ANNEXURE

**Destruction Cases List in Summary Trial Cases
of Judicial Magistrate No. II, Puducherry**

Sl. No.	Case No.	Sl. No.	Case No.
	2001	23	10344
1	10326	24	10345
2	10327	25	10653
3	10329	26	10654
4	10332	27	10660
5	10333	28	10661
6	10656	29	10663
7	10658	30	10699
8	10655	31	10844
9	10652	32	10845
10	10646	33	10896
11	10347	34	10897
12	10348	35	10898
13	10349	36	10899
14	10350	37	10900
15	10614	38	10901
16	10645	39	10902
17	10334	40	10903
18	10338	41	10904
19	10339	42	10905
20	10340	43	10906
21	10341	44	10907
22	10342	45	10908